

IFW

Docket No. 1670.1019

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of:

Koji SHIGEMURA, et al.

Serial No. 10/718,640

Group Art Unit: 2879

Confirmation No. 1164

Filed: November 24, 2003

Examiner: Natalie K. Walford

For: EVAPORATION MASK, METHOD OF FABRICATING ORGANIC
ELECTROLUMINESCENT DEVICE USING THE SAME, AND ORGANIC
ELECTROLUMINESCENT DEVICE

RESPONSE TO RESTRICTION AND ELECTION REQUIREMENT

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

This is responsive to the Office Action mailed March 10, 2006, having a period for response set to expire on April 10, 2006. The following remarks are provided.

Information Disclosure Statements were filed on November 24, 2003, June 8, 2004, and August 29, 2005, and it is respectfully requested that these Information Disclosure Statements be considered.

I. Error in the Conditional Requirement for an Election of Species

The Examiner has set forth a conditional requirement for an election of species on page 3 of the Office Action that is applicable if Invention I is elected. However, the conditional requirement for election of species is incomplete because it does not mention claims 49-51 which belong to Invention I. Applicants consider claims 49-50 to belong to Species A (claims 1-6, 10-22, and 34-38), and consider claim 51 to be generic to Species A and B. Accordingly, it is respectfully requested that the Examiner modify the conditional requirement for an election of species in the next Office Action to indicate that Species A includes claims 1-6, 10-22, 34-38, and 49-50, and that claim 51 is generic.

II. Provisional Election of Claims Pursuant to 37 CFR 1.142 and 1.146

Applicants provisionally elect **Invention I, claims 1-41 and 49-51**, in response to the restriction requirement set forth on page 2 of the Office Action, and provisionally elect **Species A, claims 1-6, 10-22, 34-38, and 49-50, together with linking claims 26-30 which link together the inventions of Species A and B, and generic claim 51**, in response to the conditional requirement for an election of species with respect to Invention I set forth on page 3 of the Office Action.

Linking claims 26-30 are discussed below in Section IV in which the Applicants traverse the conditional requirement for an election of species with respect to Invention I.

III. Applicants Traverse the Restriction Requirement

The Examiner considers Inventions I and II to be related as process of making (Invention I) and product made (Invention II), and considers these inventions to be distinct pursuant to MPEP 806.05(f) because "the organic electroluminescent device can be manufactured by chemical vapor deposition or paste deposition or by photoresist instead of using an evaporation mask."

However, it is believed that claims 42-48 of Invention II are so closely related to elected claims 1-6, 10-22, 34-38, and 49-50 of Invention I, Species A, linking claims 26-30, and generic claim 51 that they should remain in the same application. The elected claims are drawn to an evaporation mask, a method of manufacturing an organic luminescent (EL) device, and a mask unit for an evaporation mask, and claims 42-48 of Invention II are drawn to an organic EL device. There have been no references cited to show any necessity for requiring restriction and, in fact, it is believed that the Examiner would find references containing both process and product claims in the same field of technology. While it is noted that the Examiner has identified different classifications for the process and product claims, and has indicated that the process and product claims require different fields of search, it is believed that classification and field of search are not conclusive on the question of restriction. It is believed, moreover, that search and examination of both sets of claims would not be a serious burden on the Examiner at this time in comparison with the additional expense and delay to Applicants in having to protect the additional subject matter recited by the Invention II claims by filing a divisional application.

Upon review of references involved in this field of technology, when considering that the elected claims are drawn to an evaporation mask, a method of manufacturing an organic luminescent (EL) device, and a mask unit for an evaporation mask, and that the Invention II claims are drawn to an organic EL device, and when all of the other various facts are taken into consideration, it is believed that upon reconsideration of the Examiner's restriction requirement, all of the pending claims should be examined in the present application.

IV. Applicants Traverse the Conditional Requirement for an Election of Species With Respect to Invention I

Claims 1-6, 10-22, 34-38, and 49-50 of Species A recite at least one first dummy aperture, while claims 4-6, 12-14, 17-22, 36-38, and 50 of Species A are dependent claims that additionally recite at least one second dummy aperture. Claims 7-9, 23-33, and 39-41 of Species B recite at least one second dummy aperture, while claim 26, and thus claims 27-30 depending from claim 26, of Species B are dependent claims that additionally recite first dummy apertures. Claim 51 recites a dummy aperture. Thus, claims 4-6, 12-14, 17-22, 36-38, and 50 of Species A are linking claims that link together the inventions of Species A and B, claims 26-30 of Species B are linking claims that link together the inventions of Species A and B, and claim 51 is generic to Species A and B.

As discussed above in Section II, the applicants provisionally elect **Invention I, claims 1-41 and 49-51**, and provisionally elect **Species A, claims 1-6, 10-22, 34-38, and 49-50, together with linking claims 26-30 which link together the inventions of Species A and B, and generic claim 51**. Pursuant to MPEP 806.04 and 809, it is submitted that the Examiner is required to consider linking claims 26-30 and generic claim 51 together with elected claims 1-6, 10-22, 34-38, and 49-50.

Furthermore, in light of the extensive linkage between the inventions of Species A and B as represented by linking claims 4-6, 12-14, 17-22, 26-30, 36-38, and 50 (i.e., 21 of the 43 claims directed to the inventions of Species A and B are linking claims linking together these two inventions), it is believed that upon reconsideration of the Examiner's requirement for an election of species, all of claims 1-41 and 49-51 of Invention I (i.e., claims 1-6, 10-22, 34-38, and 49-50 of Species A, claims 7-9, 23-33, and 39-41 of Species B, and generic claim 51) should be examined in the present application.

V. Conclusion

In view of the foregoing remarks, all claims are deemed to be allowable and this application is believed to be in condition for allowance.

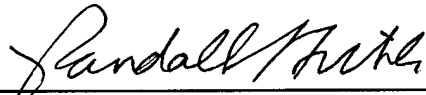
If any fees are required in connection with the filing of this paper, please charge the same to our deposit account number 503333.

Should any questions remain unresolved, the Examiner is requested to telephone Applicants' attorney.

Respectfully submitted,

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Date: 04/07/06

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